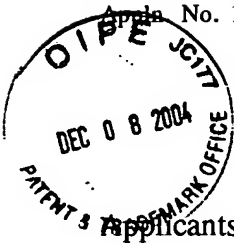


AF JZW

App. No. 10/083,580

P21995.A06 (S 897/US)



PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Benoît SAILLET et al.)
) Group Art Unit 3765
Appln. No. : 10/083,580)
) Examiner Robert H. Muromoto, Jr.
Docket No. : P21995)
) Confirmation No. 5891
Customer No. : 7055)
)
Filed : February 27, 2002)
)
Title : WATER SPORTS GARMENT HAVING)
A MULTI-LAYERED ZONE)

PETITION UNDER 37 CFR §1.181
FOR WITHDRAWAL OF PREMATURE FINAL REJECTION

Commissioner for Patents
U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop *Amendment*
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

Further to Applicants's request, filed on October 29, 2004 but not yet acted upon, that the finality of the Office action of October 1, 2004 be withdrawn for being premature, Applicants herein request, for the purpose of expediting the matter, that a decision on Applicants' request be decided by petition, if necessary, under 37 CFR §1.181. See the Manual of Patent Examining Procedure (MPEP), Section 1002.02(c)(3)(a).

On page 7 of the Office action dated October 1, 2004, it is stated that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP §706(a)."

Applicants have reviewed MPEP §706(a), but submit that the new grounds of rejection which rely upon MIDDLETON (U.S. Patent No. 5,787,502) were not necessitated by Applicants' amendment.

In the first Office action, all grounds of rejection were based, at least in part, on British Patent Publication No. 974,426 (BOLTON). As Applicants pointed out in the "Remarks" section of their amendment, BOLTON failed to disclose, *inter alia*, a garment having inner and outer layers, as specified in Applicants' claims, as originally filed.

MIDDLETON, newly cited in the Office action of October 1, 2004, is cited as disclosing a garment having inner and outer layers. In their amendment, Applicants did not add the limitation regarding inner and outer layers.

In Applicants' amendment of March 5, 2004, claim 1 (which had been rejected as anticipated by BOLTON) was amended by having added a portion of the subject matter of original claim 5 (also rejected as anticipated by BOLTON) regarding the "protective zone" being in an area of a joint of the wearer.

Additional amendments to claim 1 were of the non-substantive variety. For example, where claim 1 had initially described the underlying layer as lining the skin (of the wearer) "in an elastically deformable manner," the claim was amended to specify that the underlying layer comprises an "elastic material." Further, claim 8 had initially specified "elastic material."


In short, Applicants submit that the new grounds of rejection were necessitated by virtue of the deficiencies in the grounds of rejection in the first Office action, rather than Applicants' amendment.

At least for the foregoing reasons, Applicants kindly request that the finality of the Office action of October 1, 2004 being withdrawn.

The Commissioner is authorized to charge any fee necessary for consideration of this petition to Deposit Account No. 19-0089.

Any comment or question regarding this matter can be directed to Applicants' undersigned representative at the telephone number given below.

Respectfully submitted,
Benoît SAILLET et al.


James L. Rowland
Reg. No. 32,674

December 8, 2004
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